

the licenses, Mr. Murdoch will have the sole and exclusive voting rights to more than 51% of Cruden voting shares, by virtue of being the owner of the only shares entitled to vote of Kayarem Pty. Ltd. (owning more than 41% of Cruden's voting shares) and being the sole trustee of a trust owning more than 10% of Cruden's voting shares. Mr. Murdoch's voting control of Cruden will enable him, as a U.S. citizen, to control the voting of all of the shares held by Cruden in News Corporation, or 46% of that company. In addition, Mr. Murdoch, through Kayarem Pty. Ltd., will vote 3% of the stock of News Corporation owned by Kayarem Pty. directly. At least an additional 8.9% of the shares of News Corporation are held in the name of U.S. citizens or U.S. entities (see Attachment 1).

In light of the number of shares controlled by Mr. Murdoch, the number of shares owned by him, and his position as Chairman and Director of News Corporation, de facto control of News Corporation will rest with a U.S. citizen.

ATTACHMENT E

The Radio Act of 1912 restricted issuance of radio licenses to U.S. citizens out of concerns over national security. See Act of Aug. 13, 1912, ch. 287, § 2, 37 Stat. 302 (1912); 48 Cong. Rec. 10503 (1912). Section 12 of the Radio Act of 1927, the direct precursor to Section 310(b), similarly was designed primarily to limit foreign influence over radio licensees in order to protect the country from alien influence and activities in time of war. See 68 Cong. Rec. 3037 (1927).

When the legislation leading to the 1934 Communications Act was introduced, strict limits on foreign investment in holding companies were rejected on grounds that they were unnecessary to protect national security and would only impede U.S. competition in foreign markets. See S. Rep. No. 781, 73d Cong., 2d Sess. 7 (1934); Hearings on S.2910 Before the Comm. on Interstate Commerce, 73d Cong., 2d Sess. (1934); Hearings on H.R. 8301 Before the Comm. on Interstate and Foreign Commerce, 73d Cong., 2d Sess. (1934). Consistent with this objective, the legislation that ultimately emerged from conference delegated review of foreign investments in holding companies to the discretion of the Commission, and expressly placed on the FCC the burden of affirmatively demonstrating that foreign ownership in excess of 25 percent would disserve the public interest. Conf. Rep., 73d Cong., 2d Sess. 23 (1934). Compare 47 U.S.C. § 310(b)(4) (*permitting* foreign ownership of licensee holding company in excess of 25 percent unless "the Commission finds that the public interest will be served by the refusal or revocation of such license") with, e.g., 47 U.S.C. § 310(d) (*prohibiting* transfer or assignment of a broadcast license except "upon finding by the Commission that the public interest, convenience, and necessity will be served thereby").

Contemporaneous testimony of representatives of the Department of the Navy, the strongest proponent of restrictions on foreign ownership,

demonstrates that Congress ultimately was concerned about foreign ownership *only to the extent that it might translate into undue influence over a corporate entity*. In Senate hearings, the Navy Department's director of naval communications emphasized that the Navy had no objections to foreign holdings *per se*; rather, the concern was "that the *control* of the company be insured permanently in the United States, through the large majority of stock ownership." Hearings before the Comm. on Interstate Commerce, 73d Cong., 2d Sess. 172 (March 15, 1934) (emphasis added). The Navy witness reinforced this position by noting that "[t]he charter of the Radio Corporation of America . . . requires that at least 80 percent of its outstanding stock, *entitled to vote*, shall at all times be in the hands of loyal citizens of the United States. The company is free from foreign influence, control, or domination." Id. at 173 (emphasis added).

Federal courts have recognized the intent behind Section 310(b)(4). Specifically, the court has held that Section 310(b)(4) "was designed . . . to prevent[] alien activities against the Government during the time of war." Coalition for the Preservation of Hispanic Broadcasting v. FCC, 931 F.2d 73, 79 (D.C. Cir.), (quoting Noe v. FCC, 260 F.2d 739, 741 (D.C. Cir. 1958) (quoting 68 Cong. Rec. 3037 (1927) (remarks of Sen. Wheeler))), cert. denied, 112 S.Ct. 298 (1991). In Noe, the court also acknowledged that control was the focus of Congress' intent, noting that Section 310(b) "was incorporated in the Communications Act to 'guard against alien control and not the mere possibility of alien control.'" 260 F.2d at 742 (citing S. Rep. No. 781, 73d Cong., 2d Sess. 7 (1934)). This appellate caselaw, coupled with the legislative history, confirms that the terms of the debate leading to enactment of Section 310(b)(4) equated capital stock ownership with corporate control.

DECLARATION

Preston R. Padden, being duly sworn, hereby deposes and states:

1. I am Senior Vice President, Government Relations, of The News Corporation Limited.
2. I have reviewed the foregoing December 5, 1994 letter of Hogan & Hartson L.L.P. to the Honorable Reed E. Hundt, Chairman, Federal Communications Commission. I hereby certify that, except for matters addressed in previous submissions to the Commission or of which the Commission may take official notice, all matters of fact set forth therein are true and correct to the best of my knowledge, information and belief, and are submitted in good faith.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 5th day of December, 1994.

Preston Padden

CERTIFICATE OF SERVICE

I, Lesha Crucey, a legal secretary with the law firm of Hogan & Hartson L.L.P., hereby certify that on this 5th day of December, 1994, copies of the foregoing letter from Hogan & Hartson L.L.P. to the Honorable Reed E. Hundt, Chairman, Federal Communications Commission, in response to the November 30, 1994 Petition for Rulemaking filed by National Broadcasting Company, Inc., together with a copy of the associated letter to the Chairman from K. Rupert Murdoch, were delivered by hand to the following:

James H. Quello, Commissioner
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and mailed to:

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A handwritten signature in cursive script, appearing to read "Paula Crum", is written over a horizontal line.